THE HON'BLE SRI JUSTICE E. DHARMA RAO

W.P.No. 18012 of 2005

The petitioner in this writ petition seeks a declaration that the action of the respondents in not receiving and considering the application of the petitioner for grant of building permission for the proposed construction in S.No. 247 & 249 (Old) T.S.L.R.No.5/1 and 6/2 (New) of Block-E, Ward 86 of the Municipal Corporation of Hyderabad in an extent of 1200 Sq. Yds bearing H.No. 6-2-1012/A by insisting on the production of the "No objection Certificate" from the 2nd respondent, as illegal and arbitrary and for a consequential direction to the respondents to receive, consider and process the petitioner's application for construction of building in his land without insisting upon "No Objection Certificate" from the 2nd respondent.

The petitioner submits that himself along with her co-sharer is the absolute owner and possessor of the vacant land in S.No.249 in an extent of Ac.2-39 guntas and in S.No.247 in an extent of Ac.2-10 guntas situated at Khairatabad village and Mandal, Hyderabad District having been acquired the said property from her ancestors. The petitioner further submits that the Indian Railways and the Municipal Corporation of Hyderabad acquired part of the land of the petitioner in an extent of Ac.0-19 guntas and 2-06 guntas during the years 1967 and 1985 respectively and paid compensation. Admittedly the Indian Railways and Municipal Corporation of Hyderabad only acquired an extent of 3-06 guntas out of Ac.5-09 guntas and the remaining land vests with the petitioner as pattedar and possessor. However, according to the petitioner, out of un-acquired land of Ac.1-24 guntas some part of the land was taken over for road widening and only an extent of 1200 yards was left over, wherein the petitioner has constructed a small house and after assessment the same was given as H.No.6-2-1012, which is in possession of the petitioner. The complaint of the petitioner is that though he has submitted a building plan for grant of construction permission on 12-7-2005, the 3rd

respondent refused to receive the same on the ground that "No Objection Certificate" from the 2nd respondent was not enclosed and that the name of the petitioner is not found in Town Survey Record, inspite of there being any rules of the Municipal Corporation of Hyderabad in existence contemplating production of "No Objection Certificate" issued by the District Collector for approval of the building plans. More over, the petitioner submits, when the property in question is not the disputed property and that though the 3rd respondent cannot decide the title of the petitioner, who is the owner of the property in S.No.247 and 249 (old) New T.S.No. 5/1 and 6/2 of Ward No.86 in respect of 1200 Sq. yards, there is no justification in insisting upon the production of "No Objection Certificate" from the revenue authorities. The petitioner points out that the 3rd respondent having been assessed the property and allotted house number and collected the house tax from the petitioner, he ought not have doubted the title and possession of the petitioner over the property. Therefore the petitioner challenges the action of the 3rd respondent in refusing to receive the application for approval of proposed building plan on the ground of non-production of "No Objection Certificate" issued by the 2nd respondent.

It is to be seen that before part of the land acquired by the Municipal Corporation of Hyderabad during the year 1985, the town survey records were validated and while doing so the old S.Nos. 247 and 249 were given new Town Survey Numbers in Block E of Ward 86 of the Municipal Corporation of Hyderabad as T./S.No. 6/2 and 5/1 respectively and the same was confirmed by the revenue authorities. More over when the petitioner constructed a small house, the same was assessed in Assessment No.4/TCS/T14/MCH/2005 and allotted H.No. 6-2-1012/A, which is in possession and enjoyment of the petitioner. Therefore the action of the 3rd respondent in insisting upon the petitioner for production of "No Objection Certificate" from the 2nd respondent is arbitrary and bad in law.

Be that as it may, without going into the merits of the case, considering the facts and circumstances, I deem it appropriate to direct

the 3rd respondent to receive, consider and process the petitioner's application for construction of building in the premises in an extent of 1200 sq. yards, wherein a small house bearing H.No.6-2-1012/A is in existence, without insisting upon a "No Objection Certificate" from the 2nd respondent and, if the said application is otherwise in order, issue sanction for construction of the building in the said premises in accordance with the Municipal Corporation of Hyderabad Act and the Rules and Bye-laws made thereunder.

The writ petition is accordingly disposed of. No order as to costs.

16th August, 2005

BJ/

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH:
AT HYDERABAD.

The Hon'ble Sri justice E. Dharma Rao

W.P.No. 18012 of 2005

Dated: 16th August, 2005

Smt. Azamunnissa Begum …Petitioner

And

The Govt. of A.P., rep. By its
Secretary, Revenue Dept.,
Secretariat Bldgs., Hyd. & Ors. …Respondents.

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